SIKKIM

GOVERNMENT GAZETTE

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DEPARTMENT OF TOURISM
GOVERNMENT OF SIKKIM

No. 05/TD **Dated: 4.4.2006.**

NOTIFICATION

The draft of certain notification which the State Government proposes to make in exercise of the powers conferred by sub-section (I) of section 18 of the Sikkim Casino Games (Control and Tax) Act, 2002 (4 of 2002) is hereby published as required by that sub-section of that section of the said Act for information if all persons likely to be affected thereby and notice is hereby given that the said draft rules would be taken into consideration after expiry of a period of 45 (forty five) days from the date on which the notification is published in the Official Gazette.

Any objections or suggestion which may be received from any person with respect to the said draft rules before the expiry of the period so specified will be considered by the State Government.

(DRAFT RULES)
CHAPTER - 1
PRELIMINARY

Short Tile and commencement

1. (1) These rules may be called the Sikkim Casino Games (Control and Tax) Rules, 2006.

(2) They shall come into force on date of their publication in the Official Gazette.

Definitions

2. In these rules unless the context Otherwise requires:-

(a). "Act" means the Sikkim Casino Games (Control and Tax) Act, 2002;

(b). "Appellate Authority" means the State Government or such authority as may be appointed by the State Government;

(c). "Authorized Officer" means any person or persons appointed by the State Government for the purpose of the Act;

(d). "bailable offence" means an offence which is shown as bailable in the first Schedule of Code of Criminal Procedure, 1973;

(e). "Casino and Casinos Games" means all or any games of chance in which chance rather than skill determines the outcome;

(f). "cognizable offence" means an offence which is shown as cognizable in the first schedule of Code of Criminal Procedure, 1973.

(g). "Company" means a body corporate, and includes Firm or other association of individuals duly constituted and registered under the provisions of the Sikkim Company Act 1961.

(h). "Department" means the Department of Tourism Government of Sikkim.

(i). "Government" means the State Government of Sikkim.

(j). "instruments of gaming" means and includes any article used or intended to be used as a subject, and accessory or means of gaming, any document used or intended to be used as a register or record or evidence of gaming, the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming.

(k). "license" means a license granted by the State Government under the provisions of the Act for the purpose of running Casino Games;

(l). "licensee" means any person/Company/Firm who has been granted a license to install and operate Casino Games;

(m). "licensed premises" shall mean and include a hotel having infrastructural and other facilities of the standard of any 5 star hotel with capability to establish and operate casinos games;

(n). "penalty" means a fine imposed by the State Government or any authority for the breach or contravention of any of the rules made hereunder and on conviction before a court of competent jurisdiction;

CHAPTER-II

3. Application for license for Casino Games

Any interested person/Company/Firms/ desiring to obtain a license to operate Casino Games may apply for issue of license in Form-A.

4. Grant or refusal of license

On receipt of such application, the State Government or such officer as may be authorized in this behalf, may after making such enquiry as may be considered necessary , by order in writing, either grant the provisional license for five years or refuse to grant the license without assigning any reason or reasons.

5. Renewal of License

On expiry of the term of license issued under the Act, the license holder shall apply for the renewal of such license in the Form-A and on receipt of such application for renewal the State Government may at its discretion grant or refuse to renew such license for reasons to be recorded in writing.

6. Suspension or Cancellation of Licence

(1) The State Government may at any time after giving a reasonable opportunity of being heard or after giving show-cause notice of at least one month before in Form- 'C', suspend or cancel the license on breach of one or more of the terms and conditions prescribed in the license or for contravention of any of the provisions of the ACT, and for such suspension or cancellation of the license the concerned authority shall record brief reasons for the action taken.

(2) On suspension or cancellation of the license, the concerned authority shall furnish copy of the order of suspension or cancellation containing the reasons thereof to the concerned person/Company/Firm whose license has been suspended or cancelled

7. Recovery of fine

All fines imposed under the Act may be recovered in the manner specified by section 421 of the code of criminal procedure, 1973.

8. Power of Inspection of the Premises

1. The Authorized Officer or his authorized person in writing shall have the power of inspection of the premises without any search warrant from the Magistrate or court of law before issuance of the certificate of registration and entry in the register for his satisfaction at any convenient and reasonable time.

2. The Authorized Officer shall have also the power of inspection in the premises if the complaint is received in writing for involvement of any offence defined under the Act without search warrant.

9. Power of Seizure and impose fine

1. During the inspection of the premises of any Casinos, Authorized Officer or any of the authorized person not below the rank of under secretary shall enter upon the premises and seize any articles or any materials of offence as materials of evidence for subsequent trial and if the Authorized Officer or authorized person has found that there is any contravention and violation of any of the provision of this rule, he shall impose the fine thereof as per the prescribed rate provided under the Act.

2. The Authorised officer shall keep the seized articles in safe custody or he shall forward to the police for the next course of action as the case may be.

Provided that if no application is presented, claiming the rightful ownership of the seized article under sub-rule (1), for recovery of possession of such article within three (3) months from the date of seizure, the ownership of such article shall vest with the Government. The Authorized Officer shall be credited in the exchequer of the Government after duly conducting the public auction.

10. Supply of seizure Memo

After the seizure of the seized articles, a copy of the seizure memo should be supplied from whom the article was seized in Form-'E'

11. Power of cognizance

No cognizance shall be taken unless complaint is received or filed by any person or persons against the offenders before the Authorized Officer, and he shall have the power to take cognizance on sub-moto the Authorized Officer has

reasonable belief about the offence or of contravention of any provision of the Act;

Provided that all the offences under this Act shall be cognizable and bailable.

12. Power of fixing the rates

The Authorized Officer, may, by Notification in the Official Gazette, fix reasonable/maximum rates as the Government approves from time to time.

13. Appeal against the order of the Authorized Officer

1. Subject to the provision of Section 4 and 6 an appeal shall lie from every order of the Authorized Officer under this Act to the appellate authority to be appointed by the Government.

2. Every such appeal shall be preferred within 60(sixty) days from the date of communication of the order:

   Provided that the appellate authority may entertain an appeal after the expiry of the said period of 60(sixty) days if it is satisfied that the appellant was prevented by sufficient cause from filing it within the prescribed time limit.

3. The appellant shall have a right to appear through a counsel and the Authorized Officer and Department may be represented by such officer or person or a counsel as the Government may appoint.

4. On the receipt of any such appeal, the appellate authority shall give the appellant and respondent a reasonable opportunity of being heard and after making such enquiry as it deems proper, dispose off the appeal for reason to be recorded.

5. The proceeding before the appellate authority shall be completed within four months of its institution.

14. Power of the Authorised Officer and Appellate Authority.

The Authorised Officer and Appellate Authority shall have the powers of a Civil Court under the Code of Civil Procedure 1908 (5 of 1908) in respect of the following matters, namely:-

(1). Summoning and enforcing of attendance of the complainant made under this Act and witness required in connection therewith:

(2). Compelling the production of any document and material Exhibits.

(3). Examining witnesses on oath; and

(4). May summon and examine suo-moto of any person whose evidence appears to be material.

Explanation: For the purpose of enforcing the attendance of witnesses and other persons mentioned above, the local limits of the jurisdiction of the prescribed authority extends to the whole of the State.

15. Offence and Penalties	If any person is found carrying on the business in contravention of a y provision of the Act and rules made hereunder, the license shall summarily be cancelled and penal action can be initiated against him under the provision of the Act.
16.Production of No Objection Certificate/ License	Any person, who applies under Section 4 of the Act, shall produce the No Objection Certificate from the, Health Department (PFA), Power and energy department and Fire Department.
17. Issuance of the License	(1) Any person intending to carry out the business of casino by any dealers, hotel-keepers, under these rules shall obtain the license, as per the procedure for obtaining license has been detailed below:- (2) On receipt of an application in prescribed form and subject to the provision of these rules: - license may be issuedin FORM –'B' for operating of casino and casino Games, in a hotel having infrastructural and other facilities of the standard of any 5 star hotel with capability to establish and operate casinos games
18. License Fee	The fee in respect of trade license for operating casino Games under these rule, shall be Rs. 5,000/-(rupees five thousand) along with the prescribed application made under these rule
19. Procedure for institution of proceeding	A person shall be liable for the proceeding if he/she defaults for payment of fine imposed by the Authorised Officer and or for any contravention of any of the provision under the Act and rules made hereunder. The Authorised Officer or his authorized person may also proceed with the institution of the provision of Criminal Procedural Code, 1973 and / or may file complaint before the Police station for registration of the criminal case against the offender.
20. Place to hold the enquiry.	The Authorised Officer or his authorized person may hold an enquiry under the Act at the place of his official Headquarter or at the place where the offence was detected/ occurred.
21. Period for the Payment of Fine	The fine imposed by the Authorised Officer shall be payable within a period of one month failing which the fine may be realized in the manner provided under the Code of Criminal Procedure 1973 for levy of fines.
22. Power of Court to try the cases summarily	No Court shall entertain any complaint and take cognizance of any offence unless a written complaint is filed by Authorised Officer or his authorized person or police not below the rank of Police Inspector before a Judicial Magistrate of First Class.
23. Power of Authorised Officer	The Authorised Officer or his authorized person shall have the same power as that of the police in respect of conducting enquiries with regard to any offence under the ACT.
24. Forfeiture of Property	Where any person is convicted or fined under the rules for contravention of any provision of the rule or rules made hereunder, such articles, items, shall be forfeited to the Government.

25. Confiscation of property

Notwithstanding anything contained in the other provision of the Act and rules the authorized officer, where any violation or contravention of any provisions of the Act is believed to have been committed, such authorized officer may, whether or not prosecution is instituted for commission of such offence, order confiscation of property so seized from the premises of the licensee.

26. Issue of show-cause notice

No order of confiscation of any property under Rules 24 shall be made except after serving a notice in writing to the person or licensee from whom it is seized and reasonable opportunity of hearing is given, if any.

27. Notice to be sent by the Registered post

All notices or Orders issued under the foregoing rules, shall be sent by registered post to the person registered under the Act as shown in the application form and all such notices or Orders, as the case may be shall be deemed to have been validly communicated when the notice is duly received by the addressee.

28. Maintenance of registered and account book and other relevant documents

(1) Every licensee shall maintain the register and other account books and statement of every day with the following information, duly painted, namely:-

(i) Name of licensee .....
(ii) Location
(iii) Name of the Hotel, keeper, premises /building etc who run the business of casino.
(iv) Name of the participants
(v) Address of the participants
(vi) No. of participants
(vii) No of stakes taken
(viii) Total amount

(2) Assessment of tax

(3) Every licensee shall maintain the following books and registers, approved by the Authorized Officer, namely:-

(i). Complaint/ suggestion book to be kept at the reception counter.
(ii). Participants/ visitor register in the form at Annexure 'D'.
(iii). Bill book duly numbered in duplicate ; and
(iv). Receipt book duly numbered in duplicate for receipt of payments/ advance.

(4) The licensee shall not allow the entry of the participants/guest/ tourist in the hotel room unless his particulars are entered in the guest registration register.

(5) The Licensee also shall not allow entry of the participants/guests/ tourists under the age of 18 years or employ in the casino or otherwise allow to take part in the organization or exhibition of such casino game.

(6) Individual admission fee of Rs. 1500/- (Rupees fifteen hundred only.) shall be charged by the licensee to participants/guests/tourists for entry in the casino.

(7) The casino centre may be kept open 24 hours of the day.

(8) "licensed premises" shall mean and include a hotel having infrastructural and other facilities of the standard of any 5 star hotel with capability to establish and operate casinos games;

(9) The licensee may exhibit and advertise such casino centre by means of common hoardings/newspaper advertisement/pamphlets/brochures/ magazine advertisements/audio visual advertisements, in or outside the licensed premises.

(10) Licensee may decide at his own discretion whatever may deem fit for his business to extend credit facilities to the participants of casino and casino games.

29. Repeal and Saving

The Government, if it deems fit expedient and necessary to do so, may by Notification, to be published in the Official Gazette make amendments/ repeals to the provisions of these Rules.

Form-A

TOURISM DEPARTMENT, GOVERNMENT OF SIKKIM
APPLICATION FORM FOR LICENCE AND RENEWAL LICENSE OF CASINO AND CASINO GAMES
(See. rule 3 and 5)

Colour Passport size photograph of the applicant, 2 copies

Dated:.....

To,
The Secretary ,
Tourism Department
Government of Sikkim
Gangtok – 737101

Location :..... District.....

Sir,

I/we behalf of M/s..... request you to grant license to operate Casino and Casino Games, under Rule 3 and 17 of Sikkim Casinos and Casino Game Rule, 2005.

1. Name of the applicant/applicants (Block letter):
2. Name of the firm/Company/with registration no
   Represented by them :
3. Age of the applicant /applicants :
4. Residential Address :
   House no/street/locality/
5. P.O/P.S/District :
6. Address/description and name of
   Establishment Where casino and
   casino Games setup is proposed :
7. Whether the application is for
   grant of fresh licenseor renewal?
   If renewal previous license number
   and date of expiry of the said license:
8. Whether the relevant, fee/tax under any
   statutory law for the Previous period
   has been cleared and if so,
   the total amount paid.
   (Enclose a copy of the challan
   under which the amount has been paid):
9. Hours during which the games will be conducted:
10. Further Particulars if any :

(Signature of Applicant)

(Applicant may use a separate page if required to state all details required, as enclosure to this form)

Form 'B'

License for installation of Casino Games.
(See Rule 17)

No ..... District .....

This is to certify that Shri/Messrs ..... of ..... has been authorized and granted a License for installation of Games of Casino on the terms and conditions as prescribed vide Government Notification No ..... Dated ..... with effect from ..... to .....

This License shall be subject to condition as specified hereunder and as prescribed under the Government Notification in terms of section 3, 5 and 9 of Sikkim Casino Games Act, 2002.

1). The License shall operate the casino games only in the premises where the license is granted.

2). The Licensee shall ensure that no inconvenience/disturbance is caused to the other occupants staying in the premises/ vicinity of the premises where the games machines will be operated.

3). The Licensee shall be responsible for providing appropriate facilities to the customers.

4). The License shall pay the requisite fee/tax under any statutory law to the Government before the end of the year and before an application is made for renewal of this License.

5). The License shall extend co-operation to the Authority and to any Officer authorized by the Government for carrying out inspection of the premises and records maintained by him.

6). In case of any contravention of terms and conditions, of the license or none-cooperation to the Authority or to any Officer authorized by the Government, the license shall be liable for cancellation.

7). The Licensee shall also observe/ term and conditions as prescribed under section 3,5 and 9 of Sikkim Casino Games(Control and Tax) Act 2002, vide Government Notification No ..... Dated .....

Dated:

Place:

Signature of the Authorized Officer
And Official seal.

Form 'C'
(See rule 6)
DEPARTMENT OF TOURISM

NOTICE FOR CANCELLATION OF REGISTRATION AND LICENSE
(Under Rule 6)

No. ..... Dated ——————

To,
——————
——————

Registration/License No. ——————

Whereas your license is liable to be cancelled under section ..... of the Casinos and Casino Games Act, 2002, on the following grounds:-

1.
2.
3.

Now, therefore, a notice is hereby given to you to show cause within a period of 15 days from the date of receipt of this notice as to why your license should not be cancelled in the grounds specified above, failing which it will be presumed that you have nothing to say in this matter and the order will be passed Ex-Parte.

(Authorized Officer)

FORM 'D'
VISITOR REGISTER
[Under Rule 28(3)(ii)]

To be filled in by the participants/guest

Sl. No.	Name & Address of participants	No. of persons accompanying	Total charges received from the party	Signature Participants
1	2	3	4	5

(To be filled in by the licensee)

Receipt No. And date of Advance	Final Bill No. and date	Total amount received	Receipt No and date	Details of services of rendered	Signature Participants

FORM ' E'

Memo No. ..... Dated .....

SEIZURE MEMO

(Under rules 9 & 10)

(Under Section 9 of Casinos and Casinos Games Rules, 2005.

Name of the Accused .....Sex and age of accused.....Occupation .....

Parentage .....

Address .....

DESCRIPTION OF MATERIALS SEIZURE

i. _____

ii. _____

iii. _____

Name, address and Signature of at least two witnesses.

1.
2.

Date of seizure: Times of seizure: Place of seizure:
The above mention items have been seized from my custody on account of it not being legal.

Signature of Accused:

Name of Accused: **(Signature of Authorized Officer)**

ACKNOWLEDGEMENT

1. Name of the Applicant .....
2. Fee receipt number .....
3. Date of receipt of applicant .....

Signature of Official
(Seal of Office)